

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Sections 5-1012, 5-1024, and 5-15003 and by adding the heading
6 of Div. 5-43 and Sections 5-43000, 5-43005, 5-43010, 5-43015,
7 5-43020, 5-43025, 5-43030, 5-43035, 5-43040, 5-43045, 5-43050,
8 5-43055, 5-43060, and 5-43065 as follows:

9 (55 ILCS 5/5-1012) (from Ch. 34, par. 5-1012)

10 Sec. 5-1012. Issuance of county bonds. When the county
11 board of any county deems it necessary to issue county bonds to
12 enable them to perform any of the duties imposed upon them by
13 law, they may, by an order, entered of record, specifying the
14 amount of bonds required, and the object for which they are to
15 be issued, submit to the legal voters of their county, at any
16 election, the question of issuing such county bonds. The county
17 board shall certify the question to the proper election
18 officials who shall submit the question at an election in
19 accordance with the general election law. The amount of the
20 bonds so issued shall not exceed, including the then existing
21 indebtedness of the county, 5.75% of the value of such taxable
22 property of such county, as ascertained by the assessment for
23 the State and county tax for the preceding year or, until

1 January 1, 1983, if greater, the sum that is produced by
2 multiplying the county's 1978 equalized assessed valuation by
3 the debt limitation percentage in effect on January 1, 1979.
4 For the purposes of calculating the rate limitation, the amount
5 of any bonds or indebtedness transferred to a successor county
6 under Division 135 of the Illinois Municipal Code or the Water
7 Commission Act of 1985 pursuant to this amendatory Act of the
8 96th General Assembly shall be excluded. The proposition shall
9 be in substantially the following form: "For county bonds", or
10 "Against county bonds", and if a majority of the votes on that
11 question shall be "For county bonds", such county board may
12 issue such bonds in such denominations as the county board may
13 determine of not less than \$25 each, payable respectively, in
14 not less than one, nor more than 20 years, with interest
15 payable annually or semi-annually, at the rate of not more than
16 the greater of (i) the maximum rate authorized by the Bond
17 Authorization Act, as amended at the time of the making of the
18 contract, or (ii) 8% per annum. This Section shall not require
19 submission to the voters of the county of bond issues
20 authorized to be issued without such submission to the voters
21 under Section 5-1027 or 5-1062 or under Division 5-33, 6-6, 6-8
22 or 6-27 of this Code.

23 With respect to instruments for the payment of money issued
24 under this Section or its predecessor either before, on, or
25 after the effective date of Public Act 86-4, it is and always
26 has been the intention of the General Assembly (i) that the

1 Omnibus Bond Acts are and always have been supplementary grants
2 of power to issue instruments in accordance with the Omnibus
3 Bond Acts, regardless of any provision of this Act or "An Act
4 to revise the law in relation to counties", approved March 31,
5 1874, that may appear to be or to have been more restrictive
6 than those Acts, (ii) that the provisions of this Section or
7 its predecessor are not a limitation on the supplementary
8 authority granted by the Omnibus Bond Acts, and (iii) that
9 instruments issued under this Section or its predecessor within
10 the supplementary authority granted by the Omnibus Bond Acts
11 are not invalid because of any provision of this Act or "An Act
12 to revise the law in relation to counties", approved March 31,
13 1874, that may appear to be or to have been more restrictive
14 than those Acts.

15 (Source: P.A. 90-655, eff. 7-30-98.)

16 (55 ILCS 5/5-1024) (from Ch. 34, par. 5-1024)

17 Sec. 5-1024. Taxes. A county board may cause to be levied
18 and collected annually, except as hereinafter provided, taxes
19 for county purposes, including all purposes for which money may
20 be raised by the county by taxation, in counties having 80,000
21 or more but less than 3,000,000 inhabitants at a rate not
22 exceeding .25%, of the value as equalized or assessed by the
23 Department of Revenue; in counties with less than 80,000 but
24 more than 15,000 inhabitants at a rate not exceeding .27%, of
25 the value as equalized or assessed by the Department of

1 Revenue; in counties with less than 80,000 inhabitants which
2 have authorized a tax by referendum under Section 7-2 of the
3 Juvenile Court Act prior to the effective date of this
4 amendatory Act of 1985, at a rate not exceeding .32%, of the
5 value as equalized or assessed by the Department of Revenue;
6 and in counties with 15,000 or fewer inhabitants at a rate not
7 exceeding .37%, of the value as equalized or assessed by the
8 Department of Revenue; and in counties having 3,000,000 or more
9 inhabitants for each even numbered year, subject to the
10 abatement requirements hereinafter provided, at a rate not
11 exceeding .39% of the value, as equalized or assessed by the
12 Department of Revenue, and for each odd numbered year, subject
13 to the abatement requirements hereinafter provided, at a rate
14 not exceeding .35% of the value as equalized or assessed by the
15 Department of Revenue, except taxes for the payment of interest
16 on and principal of bonded indebtedness heretofore duly
17 authorized for the construction of State aid roads in the
18 county as defined in "An Act to revise the law in relation to
19 roads and bridges", approved June 27, 1913, or for the
20 construction of county highways as defined in the Illinois
21 Highway Code, and except taxes for the payment of interest on
22 and principal of bonded indebtedness duly authorized without a
23 vote of the people of the county, and except taxes authorized
24 as additional by a vote of the people of the county, and except
25 taxes for working cash fund purposes, and except taxes as
26 authorized by Sections 5-601, 5-602, 5-603, 5-604 and 6-512 of

1 the Illinois Highway Code, and except taxes authorized under
2 Section 7 of the Village Library Act, and except taxes levied
3 to pay the annual rent payments due under a lease entered into
4 by the county with a Public Building Commission as authorized
5 by Section 18 of the Public Building Commission Act, and except
6 taxes levied under Division 6-3, and except taxes levied for
7 general assistance for needy persons in counties under
8 commission form of government and except taxes levied under the
9 County Care for Persons with Developmental Disabilities Act,
10 and except taxes levied under the Community Mental Health Act,
11 and except taxes levied under Section 5-1025 to pay the
12 expenses of elections and except taxes levied under "An Act to
13 provide the manner of levying or imposing taxes for the
14 provision of special services to areas within the boundaries of
15 home rule units and non-home rule municipalities and counties",
16 approved September 21, 1973, and except taxes levied under
17 Section 3a of the Revenue Act of 1939 for the purposes of
18 helping to pay for the expenses of the assessor's office, and
19 except taxes levied under Division 5-21, and except taxes
20 levied pursuant to Section 19 of "The Illinois Emergency
21 Services and Disaster Agency Act of 1975", as now or hereafter
22 amended, and except taxes levied pursuant to Division 5-23, and
23 except taxes levied under Section 5 of the County Shelter Care
24 and Detention Home Act, and except taxes levied under the
25 Children's Advocacy Center Act, and except taxes levied under
26 Section 9-107 of the Local Governmental and Governmental

1 Employees Tort Immunity Act, and except taxes levied under
2 Section 2 of the Water Commission Act of 1985 by a successor
3 county as provided under Division 5-43 of the Counties Code.

4 Those taxes a county has levied and excepted from the rate
5 limitation imposed by this Section or Section 25.05 of "An Act
6 to revise the law in relation to counties", approved March 31,
7 1874, in reliance on this amendatory Act of 1994 are not
8 invalid because of any provision of this Section that may be
9 construed to or may have been construed to restrict or limit
10 those taxes levied and those taxes are hereby validated. This
11 validation of taxes levied applies to all cases pending on or
12 after the effective date of this amendatory Act of 1994.

13 Nothing contained in this amendatory Act of 1994 shall be
14 construed to affect the application of the Property Tax
15 Extension Limitation Law.

16 Any tax levied for general assistance for needy persons in
17 any county in addition to and in excess of the maximum levy
18 permitted by this Section for general county purposes shall be
19 paid into a special fund in the county treasury and used only
20 for the purposes for which it is levied except that any excess
21 in such fund over the amount needed for general assistance may
22 be used for County Nursing Home purposes and shall not exceed
23 .10% of the value, as equalized or assessed by the Department
24 of Revenue. Any taxes levied for general assistance pursuant to
25 this Section may also be used for the payment of warrants
26 issued against and in anticipation of such taxes and accrued

1 interest thereon and may also be used for the payment of costs
2 of administering such general assistance.

3 In counties having 3,000,000 or more inhabitants, taxes
4 levied for any year for any purpose or purposes, except amounts
5 levied for the payment of bonded indebtedness or interest
6 thereon and for pension fund purpose, and except taxes levied
7 to pay the annual rent payments due under a lease entered into
8 by the county with a Public Building Commission as authorized
9 by Section 18 of the Public Building Commission Act, are
10 subject to the limitation that they shall not exceed the
11 estimated amount of taxes to be levied for the year for the
12 purpose or purposes as determined in accordance with Section
13 6-24001 and set forth in the annual appropriation bill of the
14 county and in ascertaining the rate per cent that will produce
15 the amount of any tax levied in any county, the county clerk
16 shall not add to the tax or rate any sum or amount to cover the
17 loss and cost of collecting the tax, except in the case of
18 amounts levied for the payment of bonded indebtedness or
19 interest thereon, and in the case of amounts levied for pension
20 fund purposes, and except taxes levied to pay the annual rent
21 payments due under a lease entered into by the county with a
22 Public Building Commission as authorized by Section 18 of the
23 Public Building Commission Act.

24 In counties having a population of 3,000,000 or more
25 inhabitants, the county clerk shall in each even numbered year,
26 before extending the county tax for the year, reduce the levy

1 for county purposes for the year (exclusive of levies for
2 payment of indebtedness and payment of interest on and
3 principal of bonded indebtedness as aforesaid, and exclusive of
4 county highway taxes as aforesaid, and exclusive of pension
5 fund taxes, and except taxes levied to pay the annual rent
6 payments due under a lease entered into by the county with a
7 Public Building Commission as authorized by Section 18 of the
8 Public Building Commission Act) in the manner described and in
9 an amount to be determined as follows: If the amount received
10 from the collection of the tax levied in the last preceding
11 even numbered year for county purposes as aforesaid, as shown
12 by the county treasurer's final settlement for the last
13 preceding even numbered year and also by subsequent receipts of
14 delinquent taxes for the county purposes fund levied for the
15 last preceding even numbered year, equals or exceeds the amount
16 produced by multiplying the rate extended for the county
17 purposes for the last preceding even numbered year by the total
18 assessed valuation of all property in the county used in the
19 year for purposes of state and county taxes, and by deducting
20 therefrom the amount appropriated to cover the loss and cost of
21 collecting taxes to be levied for the county purposes fund for
22 the last preceding even numbered year, the clerk in determining
23 the rate per cent to be extended for the county purposes fund
24 shall deduct from the amount of the levy certified to him for
25 county purposes as aforesaid for even numbered years the amount
26 received by the county clerk or withheld by the county

1 treasurer from other municipal corporations within the county
2 as their pro rata share of election expenses for the last
3 preceding even numbered year, as authorized in Sections 13-11,
4 13-12, 13-13 and 16-2 of the Election Code, and the clerk in
5 these counties shall extend only the net amount remaining after
6 such deductions.

7 The foregoing limitations upon tax rates, insofar as they
8 are applicable to counties having less than 3,000,000
9 inhabitants, may be increased or decreased under the referendum
10 provisions of the General Revenue Law of Illinois and there
11 shall be no limit on the rate of tax for county purposes that
12 may be levied by a county so long as any increase in the rate is
13 authorized by referendum in that county.

14 Any county having a population of less than 3,000,000
15 inhabitants that has determined to change its fiscal year may,
16 as a means of effectuating a change, instead of levying taxes
17 for a one-year period, levy taxes for a period greater or less
18 than a year as may be necessary.

19 In counties having less than 3,000,000 inhabitants, in
20 ascertaining the rate per cent that will produce the amount of
21 any tax levied in that county, the County Clerk shall not add
22 to the tax or rate any sum or amount to cover the loss and cost
23 of collecting the tax except in the case of amounts levied for
24 the payment of bonded indebtedness or interest thereon and in
25 the case of amounts levied for pension fund purposes and except
26 taxes levied to pay the annual rent payments due under a lease

1 entered into by the county with a Public Building Commission as
2 authorized by Section 18 of the Public Building Commission Act.

3 A county shall not have its maximum tax rate reduced as a
4 result of a population increase indicated by the 1980 federal
5 census.

6 (Source: P.A. 91-51, eff. 6-30-99.)

7 (55 ILCS 5/5-15003) (from Ch. 34, par. 5-15003)

8 Sec. 5-15003. Department of public works. The county board
9 may establish a department of public works with authority to
10 exercise complete supervision in such county over any of the
11 projects authorized by this Division in either of the methods
12 designated hereafter.

13 A. The county board may employ a superintendent of public
14 works and such other employees for the administration of the
15 department as may be necessary. The superintendent shall be a
16 registered professional engineer and shall have complete
17 authority to supervise and manage the department; or

18 B. Each county public works department shall be managed by
19 a board of public works, consisting of 5 members appointed by
20 the President and Chairman of the county board, with the
21 approval of the county board, for a 3 year term, except that of
22 the first appointees, 2 shall serve for one year, 2 for 2
23 years, and one for 3 years. The term of office of original
24 appointees shall be regarded as beginning on July 1, following
25 their appointment, and the term of all members shall continue

1 until their successors are appointed. At least 2 members must
2 be elected officials of municipalities within the county whose
3 terms of office within the municipalities will not expire prior
4 to the termination of appointment hereunder, one member must be
5 a member of the county board whose term of office will not
6 expire prior to the termination of appointment hereunder, one
7 member must be a trustee of a Sanitary District within the
8 county whose term of office will not expire prior to the
9 termination of appointment hereunder, and one member must be
10 chosen to represent the Conservation and Public Health
11 interests. The members of the board shall receive compensation
12 as provided by the county board. The board of public works may
13 employ a superintendent of public works and any other employees
14 for the administration of the department as may be necessary.
15 The superintendent must be a registered professional engineer.
16 Any county may advance general funds for necessary studies or
17 engineering for a project to be financed by revenue bonds and
18 be reimbursed by the proceeds of such bonds. Any county may
19 purchase such bonds with funds derived solely from the County
20 Retailers Occupation Tax.

21 A county to which governance and legislative authority over
22 a water commission has been transferred and consolidated under
23 Division 5-43 shall, by ordinance, establish a Water
24 Distribution Committee. The Water Distribution Committee shall
25 consist of equal numbers of county board members and municipal
26 representatives from each county board district and any other

1 members as may be determined by the county and municipal
2 members.

3 The county board members shall be appointed as provided by
4 the rules of the county board. Municipal members from each
5 county board district or other represented area shall be
6 appointed by a majority vote of the mayors of those
7 municipalities that have the greatest percentage of their
8 respective populations residing in the county board district or
9 other represented area. Persons appointed to the Committee must
10 have knowledge of and experience in management, finance,
11 engineering, or other professional qualifications. All
12 municipal and county board representatives shall be entitled to
13 a vote. No Committee member shall receive a salary or
14 compensation for service other than as provided by rule of the
15 county board. Officers of the Committee shall include a chair
16 to be selected by the chairperson of the county board and a
17 vice-chair to be selected by the municipal representatives. The
18 county clerk and treasurer shall perform their respective
19 functions as for other county committees and departments.

20 The principal duties of the Water Distribution Committee
21 shall be to provide recommendations related to the exercise of
22 the county's powers vested in the county under Division 5-43
23 and shall have such direct administrative responsibilities
24 over the water distribution from the county distribution system
25 to the municipal water systems as shall be assigned by the
26 county board. The Water Distribution Committee shall have no

1 duties related to a county's public works water system, which
2 shall continue to be administered in accordance with paragraphs
3 A. or B. of this Section.

4 The Water Distribution Committee shall provide for the
5 proper and safe keeping of its permanent records and for the
6 recording of the corporate action of the Committee. The
7 Committee shall post on the county's official Internet website
8 the following records and information: (i) minutes of meetings,
9 (ii) contracts, (iii) purchase orders, (iv) advertisements for
10 bids, (v) and any vendor doing business with the Committee.

11 (Source: P.A. 86-962.)

12 (55 ILCS 5/Div. 5-43 heading new)

13 Division 5-43. Water Distribution Powers

14 (55 ILCS 5/5-43000 new)

15 Sec. 5-43000. Purpose and findings. It is the purpose of
16 this Division 5-43 to merge and consolidate county water
17 commissions created under the provisions of Division 135 of the
18 Illinois Municipal Code or the Water Commission Act of 1985 and
19 to transfer governance of those water commissions to the county
20 board of the primary county encompassing the municipality and
21 units of local government served by the county water
22 commission.

23 The General Assembly finds that numerous economic
24 challenges, unprecedented in scope and scale, confront the

1 State. The General Assembly also finds that the State has a
2 compelling interest in reducing the economic and
3 administrative inefficiencies resulting from multiple units of
4 local government conducting related public services. In
5 response to the realities of the current economic times, in an
6 effort to increase administrative efficiency, and in an effort
7 to reduce the multiplicity of units of local government
8 conducting related public services, this Division 5-43 is
9 intended to (i) preserve the separate and distinct public
10 service of a county water commission to assure the sufficient
11 and economic provision of a water distribution service within
12 those county-wide areas in need, (ii) assign, merge, and
13 consolidate governance and legislative authority assigned to
14 water commission boards to the county of primary location, and
15 (iii) maintain the independent power of municipalities to
16 provide for the retail distribution of water to their residents
17 and customers of their municipal waterworks systems.

18 The changes made by this amendatory Act of the 96th General
19 Assembly are intended to save costs by eliminating an
20 unnecessary additional level of government, make the
21 governance of the water distribution systems more responsive to
22 the electors and water users, serve more equitably the
23 municipalities receiving water, ensure the financial viability
24 of the water distribution systems, spread the costs of the
25 water distribution systems more equitably among the users,
26 ensure proper financial and operational oversight, and ensure

1 that government services are delivered in a transparent and
2 responsible manner.

3 It is not the intent of this amendatory Act of the 96th
4 General Assembly to change or permit the changing of any
5 financial covenants or obligations of a water commission
6 previously established under Division 135 of the Illinois
7 Municipal Code or the Water Commission Act of 1985.

8 (55 ILCS 5/5-43005 new)

9 Sec. 5-43005. Consolidation and reassignment of authority.
10 Each county that is the primary county served by a water
11 commission previously formed under Division 135 of the Illinois
12 Municipal Code or the Water Commission Act of 1985 is vested
13 with all powers vested in such water commissions whose
14 authority is abrogated under the provisions of this amendatory
15 Act of the 96th General Assembly. On and after December 1,
16 2010, all powers vested in such water commissioners or water
17 commissions with regard to the operation and maintenance of a
18 county water distribution system shall be exercised by the
19 county of primary service.

20 (55 ILCS 5/5-43010 new)

21 Sec. 5-43010. Binding actions. All acts lawfully done by or
22 in favor of any county water commission or water commission
23 corporate authority superseded by a successor county
24 government pursuant to the terms of this Division 5-43 shall be

1 valid and binding upon the respective parties affected by such
2 acts, except that the successor county shall be substituted in
3 lieu of the county water commission or water commission
4 corporate authority. This provision shall apply among other
5 things to contracts, grants, licenses, warrants, orders,
6 notices, assignments, and official bonds, but shall not affect
7 any existing or contingent rights of a county water commission
8 or water commission corporate authority to modify, revoke, or
9 rescind a contract, grant, license, warrant, order, notice,
10 assignment, or official bond. Any arrangement or agreement with
11 any other institution, agency, or association, public or
12 private, existing at the time this amendatory Act of the 96th
13 General Assembly takes effect shall not be impaired or
14 affected, but shall be continued in force by the provisions of
15 this Division 5-43.

16 (55 ILCS 5/5-43015 new)

17 Sec. 5-43015. Ordinances, orders, and resolutions.

18 (a) On December 1, 2010, the ordinances, orders, and
19 resolutions of a predecessor consolidated water commission
20 under this amendatory Act of the 96th General Assembly that
21 were in effect on November 30, 2010, and that pertain to the
22 assets, property, rights, powers, monetary indebtedness, and
23 functions transferred to the county served by the predecessor
24 consolidated water commission, shall become, with respect to
25 that territory, the ordinances, orders, and resolutions of the

1 county and shall continue in effect until amended or repealed
2 or expiration under this stated term, whichever occurs first.

3 (b) Any ordinances, orders, or resolutions pertaining to
4 the assets, property, rights, powers, monetary indebtedness,
5 and functions transferred to the county under this amendatory
6 Act of the 96th General Assembly that have been proposed by a
7 predecessor consolidated water commission, but have not taken
8 effect or been finally adopted by November 30, 2010 shall
9 become, with respect to that territory, the proposed
10 ordinances, orders, and resolutions of the successor county,
11 and any procedures that have already been completed by the
12 predecessor consolidated water commission for those proposed
13 ordinances, orders, or resolutions need not be repeated.

14 (55 ILCS 5/5-43020 new)

15 Sec. 5-43020. Savings provisions.

16 (a) The assets, property, rights, powers, monetary
17 indebtedness, and functions reassigned and consolidated for
18 governance to a successor county by this amendatory Act of the
19 96th General Assembly shall be vested in that county subject to
20 the provisions of this amendatory Act of the 96th General
21 Assembly. An act done by a predecessor consolidated water
22 commission with respect to the transferred assets, property,
23 rights, powers, monetary indebtedness, or functions shall have
24 the same legal effect as if done by the county. The county is
25 not liable for any act done by an officer, employee, or agent

1 of the predecessor consolidated water commission on or before
2 December 1, 2010, if the act was an individual or unofficial
3 act or an act outside of the scope of duties.

4 (b) The transfer of assets, property, rights, powers,
5 monetary indebtedness, and functions under this amendatory Act
6 of the 96th General Assembly does not invalidate any previous
7 action taken by or in respect to a predecessor consolidated
8 water commission or its officers, employees, or agents.
9 Reference to a predecessor consolidated water commission or to
10 its officers, employees, or agents in any document, contract,
11 agreement, or law shall, in appropriate contexts, be deemed to
12 refer to the county served by the predecessor consolidated
13 water commission.

14 (c) The transfer under this amendatory Act of the 96th
15 General Assembly of assets, property, rights, powers, monetary
16 indebtedness, and functions of a predecessor consolidated
17 water commission, does not affect any person's rights,
18 obligations, or duties, including any applicable civil or
19 criminal penalties arising out of those transferred assets,
20 property, rights, powers, monetary indebtedness, and
21 functions.

22 (d) With respect to matters pertaining to an asset,
23 property, right, power, monetary indebtedness, or function
24 transferred to a county under this amendatory Act of the 96th
25 General Assembly:

26 (1) Beginning December 1, 2010, a report or notice that

1 was previously required to be made or given by any person
2 to a predecessor consolidated water commission or to any of
3 its officers, employees, or agents must be made or given in
4 the same manner to the county.

5 (2) Beginning December 1, 2010, a document that was
6 previously required to be furnished or served by any person
7 to or upon a predecessor consolidated water commission or
8 to or upon any of its officers, employees, or agents must
9 be furnished or served in the same manner to or upon the
10 county.

11 (e) This amendatory Act of the 96th General Assembly does
12 not affect any act done, ratified, or cancelled, or any right
13 occurring or established, or any action or proceeding had or
14 commenced in an administrative, civil, or criminal case before
15 December 1, 2010. Any such action or proceeding that pertains
16 to an asset, property, right, power, monetary indebtedness, or
17 function transferred to a county under this amendatory Act of
18 the 96th General Assembly, and that is pending on November 30,
19 2010, may be prosecuted, defended, or continued by the county.

20 (55 ILCS 5/5-43025 new)

21 Sec. 5-43025. Title to property and revenue maintained by
22 the county. Effective December 1, 2010, the title to all lands,
23 property, and funds of every description owned or held by a
24 county water commission superseded by a successor county shall
25 be vested in the successor county. Funds held by a superseded

1 county water commission or water commission corporate
2 authority for a particular purpose shall be set aside and used
3 by the successor county only for the purpose originally
4 designated.

5 Any surplus of such funds remaining after accomplishing
6 such purpose shall become a part of the water distribution
7 enterprise fund maintained by the successor county as set forth
8 in Section 5-43040.

9 Any property or funds held by any county water commission
10 or water commission corporate authority superseded by the
11 successor county upon any special expressed trust shall be held
12 by the successor county under that trust.

13 The proceeds of taxes and special assessments, lawfully
14 levied before this amendatory Act of the 96th General Assembly
15 takes effect, shall continue to be collected after the
16 effective date of this amendatory Act of the 96th General
17 Assembly in the name of the successor county, and shall be
18 applied to the purposes for which they were lawfully levied or
19 imposed.

20 Any surplus of such proceeds available after application to
21 and completion of such purposes shall become a part of the
22 water distribution enterprise fund maintained by the successor
23 county as set forth in Section 5-43040.

24 (55 ILCS 5/5-43030 new)

25 Sec. 5-43030. Water distribution and supply powers. On and

1 after December 1, 2010, all governance powers previously
2 delegated to a county water commission formed under Division
3 135 of the Illinois Municipal Code or the Water Commission Act
4 of 1985 are assigned to, transferred to, modified for, and
5 consolidated in the county board of the primary county served
6 by the water commission. As a result, the county shall have all
7 powers, functions, and taxing authority assigned to a water
8 commission formed under Division 135 of the Illinois Municipal
9 Code, as well as all other powers, functions, and taxing
10 authority assigned to a water commission formed under the Water
11 Commission Act of 1985, and counties to which such water
12 commission powers and authorities have been reassigned may rely
13 on Division 135 of the Illinois Municipal Code and the Water
14 Commission Act of 1985, as a delegation of additional State
15 authority to act.

16 A county served by a water commission where governance and
17 legislative authority have been consolidated and transferred
18 to the county under this amendatory Act of the 96th General
19 Assembly, shall assume the assets, property, powers, rights,
20 and monetary indebtedness of the predecessor consolidated
21 water commission, including, but not limited to:

22 (1) Authority to maintain and continue to collect any
23 property tax levy or sales tax lawfully approved by the
24 predecessor consolidated water commission prior to the
25 effective date of this amendatory Act of the 96th General
26 Assembly.

1 (2) Authority to impose and receive those property
2 taxes and occupation and use taxes authorized in Sections
3 2, 4, and 5 of the Water Commission Act of 1985.

4 (3) Authority to assume the succeeding interest in the
5 Great Lakes water allocation assigned by the Illinois
6 Department of Natural Resources to the predecessor
7 consolidated water commission.

8 (4) Authority to exercise those powers delegated to
9 water commissions under Division 135 of the Illinois
10 Municipal Code or the Water Commission Act of 1985, within
11 the territory authorized by those Acts, notwithstanding
12 that some of the territory may lie outside of the county.

13 (55 ILCS 5/5-43035 new)

14 Sec. 5-43035. Annual audit. The county auditor shall
15 annually audit all county accounts related to the exercise of
16 the water distribution powers vested in a successor county by
17 this amendatory Act of the 96th General Assembly and shall post
18 the annual audit on the county's official Internet website. The
19 annual audit shall address the county water distribution system
20 and any waterworks systems operated by county public works as
21 separate enterprises. The annual audit required under this
22 Section must provide a transparent record of revenue received,
23 expenses incurred, taxes levied, debt incurred, and capital
24 reserves maintained in a manner that recognizes the separate
25 and distinct function of the water distribution system and

1 public works waterworks systems.

2 (55 ILCS 5/5-43040 new)

3 Sec. 5-43040. Water distribution enterprise fund. On
4 December 1, 2010, a successor county vested with the powers of
5 a county water commission under this amendatory Act of the 96th
6 General Assembly shall establish a water distribution
7 enterprise fund. All moneys transferred from a water commission
8 to a successor county shall, for accounting purposes, be stated
9 separately within the water distribution enterprise fund. The
10 water distribution enterprise fund may include sub-funds for
11 bond repayment and any other purposes as deemed useful for
12 management purposes. All revenues received from property tax
13 levies, occupation and use taxes imposed by the predecessor
14 consolidated water commission, and rates and fees charged to
15 the municipal customers of the county water distribution system
16 shall be stated separately within the water distribution
17 enterprise fund. Any surplus remaining after full payment of
18 indebtedness, capital reserves, and expenses of the water
19 distribution system shall not be transferred to the common fund
20 as provided in Section 5-1011, but shall remain in the water
21 distribution enterprise fund.

22 Any county water fund existing on November 30, 2010, that
23 was intended to state or hold revenues received from, or
24 dedicated to, future expenses of a county public works
25 waterworks system providing retail service to areas of that

1 county shall be maintained after December 1, 2010 as a fund
2 separate and distinct from the water distribution enterprise
3 fund. The revenues, expenses, and capital reserves of the
4 county water distribution system shall be accounted for
5 separately from the revenues, expenses, and capital reserves of
6 any public works retail waterworks system.

7 (55 ILCS 5/5-43045 new)

8 Sec. 5-43045. Water rate authority. A county that becomes a
9 successor in governance to a predecessor consolidated water
10 commission under this amendatory Act of the 96th General
11 Assembly, that also has a county public works department
12 operating waterworks systems providing retail water
13 distribution service to residents or businesses, or both, must
14 operate a water distribution system to convey and provide water
15 to multiple municipalities, units of local government, and
16 private utility companies (known as "water distribution
17 service"), and also a public works waterworks system that
18 provides retail water service direct to end use customers
19 (known as "retail water service"). The water rates charged for
20 water distribution service shall be established as follows:

21 (1) The county shall charge its water distribution
22 customers a rate that is equal to or reasonably exceeds its
23 bulk water purchase rate to pay for the reasonable costs of
24 operation, debt servicing obligations, capitol reserves,
25 or its water distribution supply system.

1 (2) The rate charged by the county for water
2 distribution service shall increase in an amount equal to
3 any increase charged to the county for the purchase of bulk
4 water to be distributed, and such increase charged shall
5 automatically become effective without county action no
6 later than one month after the purchase rate increase takes
7 effect.

8 (3) Under no circumstance may the county charge a rate
9 less than the rate of the bulk water purchased by the
10 county for the water distribution service.

11 (4) If the water distribution rate in effect on
12 December 1, 2010 is less than the bulk purchase rate, then
13 the rate shall be immediately adjusted as set forth in this
14 Section.

15 Water rates for retail water service direct to end use
16 customers of any county public works retail water service
17 system operated by the county shall be established in
18 accordance with applicable State law by the county board.

19 (55 ILCS 5/5-43050 new)

20 Sec. 5-43050. Preparation and transition costs. All
21 reasonable costs incurred by a county in preparation for the
22 succession of authority and consolidation of power from a
23 county water commission under this amendatory Act of the 96th
24 General Assembly and in transition to the exercise of the
25 powers and duties provided in this Division 5-43 shall be paid

1 by or reimbursed from the assets and revenue of the predecessor
2 consolidated water commission and shall be deemed proper costs
3 attributable to water distribution supply systems.

4 (55 ILCS 5/5-43055 new)

5 Sec. 5-43055. Water service for unincorporated areas. A
6 successor county may require as a condition of a new or
7 existing water supply contract that a municipality provide
8 water to unincorporated areas of the county that adjoin that
9 municipality.

10 (55 ILCS 5/5-43060 new)

11 Sec. 5-43060. Cross references. Beginning on December 1,
12 2010, all references in other statutes including Division 135
13 of the Municipal Code and the Water Commission Act of 1985,
14 however phrased, to a water commission consolidated under this
15 amendatory Act of the 96th General Assembly, shall be
16 references to the county in its capacity as successor to the
17 predecessor consolidated water commission.

18 (55 ILCS 5/5-43065 new)

19 Sec. 5-43065. Home rule. A home rule unit may not regulate
20 its water systems in a manner that is inconsistent with the
21 provisions of this amendatory Act of the 96th General Assembly.
22 This Section is a limitation under subsection (i) of Section 6
23 of Article VII of the Illinois Constitution on the concurrent

1 exercise by home rule units of powers and functions exercised
2 by the State.

3 Section 10. The Illinois Municipal Code is amended by
4 adding Sections 11-135-15 and 11-135-20

5 (65 ILCS 5/11-135-15 new)

6 Sec. 11-135-15. Purpose. It is the purpose of this
7 amendatory Act of the 96th General Assembly to abrogate the
8 powers of water commissions created by this Act and to
9 consolidate and reassign those powers to the respective primary
10 counties that are served by those water commissions. The
11 purposes and goals of this amendatory Act of the 96th General
12 Assembly are further reflected and incorporated in Division
13 5-43 of the Counties Code.

14 (65 ILCS 5/11-135-20 new)

15 Sec. 11-135-20. Consolidation and abrogation of power.
16 Notwithstanding any provision of law to the contrary, the
17 powers previously assigned to water commissions under this Act
18 and the Water Commission Act of 1985 are abrogated, reassigned,
19 and consolidated to the primary county serviced by such water
20 commission on December 10, 2010. The terms of abrogation,
21 reassignment, and consolidation are as set forth in Division
22 5-43 of the Counties Code.

1 Section 15. The Water Commission Act of 1985 is amended by
2 changing Section 4 and by adding Sections 0.001 and 0.001a as
3 follows:

4 (70 ILCS 3720/0.001 new)

5 Sec. 0.001. Purpose. It is the purpose of this amendatory
6 Act of the 96th General Assembly to abrogate the powers of
7 water commissions created by this Act and to consolidate and
8 reassign those powers to the respective primary counties that
9 are served by those water commissions. The purposes and goals
10 of this amendatory Act of the 96th General Assembly are further
11 reflected and incorporated in Division 5-43 of the Counties
12 Code.

13 (70 ILCS 3720/0.001a new)

14 Sec. 0.001a. Consolidation and abrogation of power.
15 Notwithstanding any provision of law to the contrary, the
16 powers previously assigned to water commissions under this Act
17 and Division 135 of the Illinois Municipal Code are abrogated,
18 reassigned, and consolidated to the primary county serviced by
19 such water commission on December 10, 2010. The terms of
20 abrogation, reassignment, and consolidation are as set forth in
21 Division 5-43 of the Counties Code.

22 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

23 Sec. 4. Taxes.

1 power to administer and enforce the taxes and to determine all
2 rights for refunds for erroneous payments of the taxes.

3 (b) The board of commissioners may impose a County Water
4 Commission Retailers' Occupation Tax upon all persons engaged
5 in the business of selling tangible personal property at retail
6 in the territory of the commission at a rate of 1/4% of the
7 gross receipts from the sales made in the course of such
8 business within the territory. The tax imposed under this
9 paragraph and all civil penalties that may be assessed as an
10 incident thereof shall be collected and enforced by the State
11 Department of Revenue. The Department shall have full power to
12 administer and enforce this paragraph; to collect all taxes and
13 penalties due hereunder; to dispose of taxes and penalties so
14 collected in the manner hereinafter provided; and to determine
15 all rights to credit memoranda arising on account of the
16 erroneous payment of tax or penalty hereunder. In the
17 administration of, and compliance with, this paragraph, the
18 Department and persons who are subject to this paragraph shall
19 have the same rights, remedies, privileges, immunities, powers
20 and duties, and be subject to the same conditions,
21 restrictions, limitations, penalties, exclusions, exemptions
22 and definitions of terms, and employ the same modes of
23 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
24 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
25 therein other than the State rate of tax except that food for
26 human consumption that is to be consumed off the premises where

1 it is sold (other than alcoholic beverages, soft drinks, and
2 food that has been prepared for immediate consumption) and
3 prescription and nonprescription medicine, drugs, medical
4 appliances and insulin, urine testing materials, syringes, and
5 needles used by diabetics, for human use, shall not be subject
6 to tax hereunder), 2c, 3 (except as to the disposition of taxes
7 and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,
8 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
9 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
10 Penalty and Interest Act, as fully as if those provisions were
11 set forth herein.

12 Persons subject to any tax imposed under the authority
13 granted in this paragraph may reimburse themselves for their
14 seller's tax liability hereunder by separately stating the tax
15 as an additional charge, which charge may be stated in
16 combination, in a single amount, with State taxes that sellers
17 are required to collect under the Use Tax Act and under
18 subsection (e) of Section 4.03 of the Regional Transportation
19 Authority Act, in accordance with such bracket schedules as the
20 Department may prescribe.

21 Whenever the Department determines that a refund should be
22 made under this paragraph to a claimant instead of issuing a
23 credit memorandum, the Department shall notify the State
24 Comptroller, who shall cause the warrant to be drawn for the
25 amount specified, and to the person named, in the notification
26 from the Department. The refund shall be paid by the State

1 Treasurer out of a county water commission tax fund established
2 under paragraph (g) of this Section.

3 For the purpose of determining whether a tax authorized
4 under this paragraph is applicable, a retail sale by a producer
5 of coal or other mineral mined in Illinois is a sale at retail
6 at the place where the coal or other mineral mined in Illinois
7 is extracted from the earth. This paragraph does not apply to
8 coal or other mineral when it is delivered or shipped by the
9 seller to the purchaser at a point outside Illinois so that the
10 sale is exempt under the Federal Constitution as a sale in
11 interstate or foreign commerce.

12 If a tax is imposed under this subsection (b) a tax shall
13 also be imposed under subsections (c) and (d) of this Section.

14 No tax shall be imposed or collected under this subsection
15 on the sale of a motor vehicle in this State to a resident of
16 another state if that motor vehicle will not be titled in this
17 State.

18 Nothing in this paragraph shall be construed to authorize a
19 county water commission to impose a tax upon the privilege of
20 engaging in any business which under the Constitution of the
21 United States may not be made the subject of taxation by this
22 State.

23 (c) If a tax has been imposed under subsection (b), a
24 County Water Commission Service Occupation Tax shall also be
25 imposed upon all persons engaged, in the territory of the
26 commission, in the business of making sales of service, who, as

1 an incident to making the sales of service, transfer tangible
2 personal property within the territory. The tax rate shall be
3 1/4% of the selling price of tangible personal property so
4 transferred within the territory. The tax imposed under this
5 paragraph and all civil penalties that may be assessed as an
6 incident thereof shall be collected and enforced by the State
7 Department of Revenue. The Department shall have full power to
8 administer and enforce this paragraph; to collect all taxes and
9 penalties due hereunder; to dispose of taxes and penalties so
10 collected in the manner hereinafter provided; and to determine
11 all rights to credit memoranda arising on account of the
12 erroneous payment of tax or penalty hereunder. In the
13 administration of, and compliance with, this paragraph, the
14 Department and persons who are subject to this paragraph shall
15 have the same rights, remedies, privileges, immunities, powers
16 and duties, and be subject to the same conditions,
17 restrictions, limitations, penalties, exclusions, exemptions
18 and definitions of terms, and employ the same modes of
19 procedure, as are prescribed in Sections 1a-1, 2 (except that
20 the reference to State in the definition of supplier
21 maintaining a place of business in this State shall mean the
22 territory of the commission), 2a, 3 through 3-50 (in respect to
23 all provisions therein other than the State rate of tax except
24 that food for human consumption that is to be consumed off the
25 premises where it is sold (other than alcoholic beverages, soft
26 drinks, and food that has been prepared for immediate

1 consumption) and prescription and nonprescription medicines,
2 drugs, medical appliances and insulin, urine testing
3 materials, syringes, and needles used by diabetics, for human
4 use, shall not be subject to tax hereunder), 4 (except that the
5 reference to the State shall be to the territory of the
6 commission), 5, 7, 8 (except that the jurisdiction to which the
7 tax shall be a debt to the extent indicated in that Section 8
8 shall be the commission), 9 (except as to the disposition of
9 taxes and penalties collected and except that the returned
10 merchandise credit for this tax may not be taken against any
11 State tax), 10, 11, 12 (except the reference therein to Section
12 2b of the Retailers' Occupation Tax Act), 13 (except that any
13 reference to the State shall mean the territory of the
14 commission), the first paragraph of Section 15, 15.5, 16, 17,
15 18, 19 and 20 of the Service Occupation Tax Act as fully as if
16 those provisions were set forth herein.

17 Persons subject to any tax imposed under the authority
18 granted in this paragraph may reimburse themselves for their
19 serviceman's tax liability hereunder by separately stating the
20 tax as an additional charge, which charge may be stated in
21 combination, in a single amount, with State tax that servicemen
22 are authorized to collect under the Service Use Tax Act, and
23 any tax for which servicemen may be liable under subsection (f)
24 of Sec. 4.03 of the Regional Transportation Authority Act, in
25 accordance with such bracket schedules as the Department may
26 prescribe.

1 Whenever the Department determines that a refund should be
2 made under this paragraph to a claimant instead of issuing a
3 credit memorandum, the Department shall notify the State
4 Comptroller, who shall cause the warrant to be drawn for the
5 amount specified, and to the person named, in the notification
6 from the Department. The refund shall be paid by the State
7 Treasurer out of a county water commission tax fund established
8 under paragraph (g) of this Section.

9 Nothing in this paragraph shall be construed to authorize a
10 county water commission to impose a tax upon the privilege of
11 engaging in any business which under the Constitution of the
12 United States may not be made the subject of taxation by the
13 State.

14 (d) If a tax has been imposed under subsection (b), a tax
15 shall also imposed upon the privilege of using, in the
16 territory of the commission, any item of tangible personal
17 property that is purchased outside the territory at retail from
18 a retailer, and that is titled or registered with an agency of
19 this State's government, at a rate of 1/4% of the selling price
20 of the tangible personal property within the territory, as
21 "selling price" is defined in the Use Tax Act. The tax shall be
22 collected from persons whose Illinois address for titling or
23 registration purposes is given as being in the territory. The
24 tax shall be collected by the Department of Revenue for a
25 county water commission. The tax must be paid to the State, or
26 an exemption determination must be obtained from the Department

1 of Revenue, before the title or certificate of registration for
2 the property may be issued. The tax or proof of exemption may
3 be transmitted to the Department by way of the State agency
4 with which, or the State officer with whom, the tangible
5 personal property must be titled or registered if the
6 Department and the State agency or State officer determine that
7 this procedure will expedite the processing of applications for
8 title or registration.

9 The Department shall have full power to administer and
10 enforce this paragraph; to collect all taxes, penalties and
11 interest due hereunder; to dispose of taxes, penalties and
12 interest so collected in the manner hereinafter provided; and
13 to determine all rights to credit memoranda or refunds arising
14 on account of the erroneous payment of tax, penalty or interest
15 hereunder. In the administration of, and compliance with this
16 paragraph, the Department and persons who are subject to this
17 paragraph shall have the same rights, remedies, privileges,
18 immunities, powers and duties, and be subject to the same
19 conditions, restrictions, limitations, penalties, exclusions,
20 exemptions and definitions of terms and employ the same modes
21 of procedure, as are prescribed in Sections 2 (except the
22 definition of "retailer maintaining a place of business in this
23 State"), 3 through 3-80 (except provisions pertaining to the
24 State rate of tax, and except provisions concerning collection
25 or refunding of the tax by retailers, and except that food for
26 human consumption that is to be consumed off the premises where

1 it is sold (other than alcoholic beverages, soft drinks, and
2 food that has been prepared for immediate consumption) and
3 prescription and nonprescription medicines, drugs, medical
4 appliances and insulin, urine testing materials, syringes, and
5 needles used by diabetics, for human use, shall not be subject
6 to tax hereunder), 4, 11, 12, 12a, 14, 15, 19 (except the
7 portions pertaining to claims by retailers and except the last
8 paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act
9 and Section 3-7 of the Uniform Penalty and Interest Act that
10 are not inconsistent with this paragraph, as fully as if those
11 provisions were set forth herein.

12 Whenever the Department determines that a refund should be
13 made under this paragraph to a claimant instead of issuing a
14 credit memorandum, the Department shall notify the State
15 Comptroller, who shall cause the order to be drawn for the
16 amount specified, and to the person named, in the notification
17 from the Department. The refund shall be paid by the State
18 Treasurer out of a county water commission tax fund established
19 under paragraph (g) of this Section.

20 (e) A certificate of registration issued by the State
21 Department of Revenue to a retailer under the Retailers'
22 Occupation Tax Act or under the Service Occupation Tax Act
23 shall permit the registrant to engage in a business that is
24 taxed under the tax imposed under paragraphs (b), (c) or (d) of
25 this Section and no additional registration shall be required
26 under the tax. A certificate issued under the Use Tax Act or

1 the Service Use Tax Act shall be applicable with regard to any
2 tax imposed under paragraph (c) of this Section.

3 (f) Any ordinance imposing or discontinuing any tax under
4 this Section shall be adopted and a certified copy thereof
5 filed with the Department on or before June 1, whereupon the
6 Department of Revenue shall proceed to administer and enforce
7 this Section on behalf of the county water commission as of
8 September 1 next following the adoption and filing. Beginning
9 January 1, 1992, an ordinance or resolution imposing or
10 discontinuing the tax hereunder shall be adopted and a
11 certified copy thereof filed with the Department on or before
12 the first day of July, whereupon the Department shall proceed
13 to administer and enforce this Section as of the first day of
14 October next following such adoption and filing. Beginning
15 January 1, 1993, an ordinance or resolution imposing or
16 discontinuing the tax hereunder shall be adopted and a
17 certified copy thereof filed with the Department on or before
18 the first day of October, whereupon the Department shall
19 proceed to administer and enforce this Section as of the first
20 day of January next following such adoption and filing.

21 (g) The State Department of Revenue shall, upon collecting
22 any taxes as provided in this Section, pay the taxes over to
23 the State Treasurer as trustee for the commission. The taxes
24 shall be held in a trust fund outside the State Treasury. On or
25 before the 25th day of each calendar month, the State
26 Department of Revenue shall prepare and certify to the

1 Comptroller of the State of Illinois the amount to be paid to
2 the commission, which shall be the then balance in the fund,
3 less any amount determined by the Department to be necessary
4 for the payment of refunds. Within 10 days after receipt by the
5 Comptroller of the certification of the amount to be paid to
6 the commission, the Comptroller shall cause an order to be
7 drawn for the payment for the amount in accordance with the
8 direction in the certification.

9 (h) If, on or after January 1, 2014, the proceeds from a
10 tax imposed pursuant to this Section are not fully used for
11 capital infrastructure and related costs, then the county may
12 no longer impose or collect that tax.

13 (Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

14 Section 20. The State Mandates Act is amended by adding
15 Section 8.34 as follows:

16 (30 ILCS 805/8.34 new)

17 Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8
18 of this Act, no reimbursement by the State is required for the
19 implementation of any mandate created by this amendatory Act of
20 the 96th General Assembly.

21 Section 97. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.